IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3466 OF 2005

Chetan Kumar Jhabakh. ..Applicant.

V/s.

Bharat Balkrishna Parekh & Ors. ..Respondents.

Mr.A.Ponda i/b India Law Alliance for applicant.

Mr.Amol Phoujdar i/b Mr.S.V.Gaikwad for respondent.

Mr.Y.S.Shinde, APP for State.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 24, 2005.

P.C. :

1. Heard counsel for the parties.

2. None appears for the respondent No.1 though served. The short question that arises in the present petition is whether the Criminal Case No.54/PW/04, which was pending on the file of Additional Chief Metropolitan Magistrate's 19th Court at Esplanade, Mumbai on the basis of complaint No. 87 of 2000 should be quashed and set aside.

3. The applicant before this court is accused No.3 in the Criminal Case. The applicant was to be proceeded for offence punishable under section 406,

420m 408, 120(B), 34 of the Indian Penal Code. On the said complaint, Magistrate directed enquiry under section 156 and now chargesheet has been filed. The fact remains that so far the applicant/accused No.3 is concerned, he has arrived at settlement with the complainant, which fact is accepted by the complainant in his statement dated 1st January, 2004, which is also part of chargesheet. In this statement, the complainant has clearly mentioned that he has no intention to prosecute the matter any further against the applicant herein Mr.Chetan Kumar Jhabakh, in view of the settlement arrived at between the parties. Correctness of the said statement is not disputed by the learned APP. In addition to the said statement, settlement between the parties was produced before the court. In view of this development, application ought to succeed in terms of prayer clause (a).

4. Rule made absolute on the above terms only in so far as applicant/accused No.3.

5. It is made clear that rest of the accused may be tried in accordance with the law.